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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,007	07/15/2003	Scott Davis	944-015.002	9112

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EXAMINER

HAN, QI

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/621,007	Applicant(s) DAVIS, SCOTT	
	Examiner Qi Han	Art Unit 2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: the applicant's arguments in the amendment regarding prior art rejection (see remarks: pages 4-5) filed on 07/19/2007 are not persuasive. By reviewing the prior art, the rejection, the claims and the arguments, it is believed that the claimed limitations cannot be specifically distinguished from the prior art teachings and the arguments cannot overcome the examiner's rejection.

It is noted that the applicant's arguments (see REMARKS, pages 4-5) do not refer to specific claim(s), so that, the examiner's response in this advisory action is based on an assumption of the arguments being referred to the broadest claim (i.e. claim 1).

In response to applicant's arguments regarding claim rejection (i.e. claim 1), "it is true that the user can select from the list by touching a member of the list but the meaning is not the same as a virtual key, contrary to the Examiner's position" (REMARKS, page 4, p(agraph)3), "it cannot be that the Chua reference can describe both virtual keys 20 in virtual keyboard area 14 in a very explicit way and then somehow transfer this plain meaning to the list display area 26 which clearly does not show virtual keys" (REMARKS, page 4, p4), Chua "did not do this and described the words appearing in the list display area as a list of symbols or words (REMARKS, page 4, p5), and (REMARKS, page 4, p5), and "the passage referred to by the Examiner in paragraph 0017 does not say that the decided candidate keys are displayed as virtual keys" (REMARKS, page 4, p6), the examiner respectfully disagrees with the applicant's arguments and has a different view of the prior art teachings and the claim interpretations.

Firstly, regarding the meaning of virtual key (or virtual button), it is noted that Chua discloses 'various buttons appear on the screen and touching the screen at a point corresponding to one of these buttons causes the device to react as if the corresponding button (real button) itself had been touched' (Chua: p3), which clearly shows that Chua's meaning of virtual key (or virtual button) does not limited within a virtual keyboard and is not contrary to the examiner's position, at all. Similarly, Chua discloses "the bigger keys", which are virtual keys but 'not to be in within virtual keyboard' (Chua: p125; Fig. 4, step 102).

'Secondly, in addition to the virtual keyboard area 14, Chua discloses 'a list of words to a list display area 26' and 'user touches one of the words in the list display are 26' for selecting word (Fig. 1 and p21), wherein the list can be candidate symbols, words (p25), or even letters p37). This, in fact, is clearly indicates that each touched position representing each candidate symbol/word/letter in the list display area is nothing but a virtual key in nature.

Finally, it is noted that the meaning of the claimed virtual key is not specifically defined or described in the specification by a customer-defined type and the claim 1 does not even mention keyboard or virtual keyboard, so that, there is no much meaning to argue whether the virtual key is in or out of keyboard. It is also noted that the prior art teachings may be implicit or may use equivalent or interchangeable term(s), such as, in this case, the terms between virtual button and virtual key. Therefore, the rejection based on broadest reasonable interpretation (or plain meaning) of the claimed limitations is proper and covers all claimed limitations.

For above reasons, the applicant's arguments are not persuasive. The rejection is sustained.